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U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

E-filing

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

STEPHEN SHENTON,

Plaintiff,

vs.

ARS NATIONAL SERVICES, INC.,

Defendant.

Case No.
CV 10 2707
COMPLAINT FOR VIOLATION
OF FEDERAL FAIR DEBT
COLLECTION PRACTICES ACT
AND ROSENTHAL FAIR DEBT
COLLECTION PRACTICES ACT

MEJ

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter "FDCPA"), and the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §1788, *et seq.* (hereinafter "RFDCPA"), both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

II. JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. §1692k (d).

III. PARTIES

3. Plaintiff, Stephen Shenton ("Plaintiff"), is a natural person residing in Sonoma county in the state of California, and is a "consumer" as defined by the FDCPA, 15 U.S.C. §1692a(3) and is a "debtor" as defined by Cal Civ Code §1788.2(h).

4. At all relevant times herein, Defendant, ARS National Services, Inc. ("Defendant") was a company engaged, by use of the mails and telephone, in the business of collecting a debt from Plaintiff which qualifies as a "debt," as defined by 15 U.S.C. §1692a(5), and a "consumer debt," as defined by Cal Civ Code §1788.2(f). Defendant regularly attempts to collect debts alleged to be due another, and therefore is a "debt collector" as defined by the FDCPA, 15 U.S.C. §1692a(6), and RFDCPA, Cal Civ Code §1788.2(c).

IV. FACTUAL ALLEGATIONS

5. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiff to collect an alleged outstanding debt.

6. On at least one occasion, Defendant attempted to contact Plaintiff on a holiday.

1 7. On or about the last week in February, 2010 and the first week in
2 March 2010, Plaintiff sent Defendant a cease and desist letter to stop the
3 excessive collections calls he received.
4

5 8. On average, Plaintiff received at least two collections calls from
6 Defendant each day, despite requesting Defendant to stop contacting him
7 regarding the alleged debt.
8

9 9. Plaintiff has kept a call log of Defendant's attempts to contact him
10 subsequent to the cease and desist letter, including but not limited to: March 12,
11 2010 at 3:38 p.m.; March 15, 2010 at 2:46 p.m.; March 19, 2010 at 2:42 p.m.;
12 March 24, 2010 at 2:13 p.m.; March 29, 2010 at 2:46 p.m.; April 6, 2010 at 5:10
13 p.m.; April 13, 2010 at 5:30 p.m.; April 20, 2010 at 2:27 p.m.; April 22, 2010 at
14 2:44 p.m.; April 27, 2010 at 11:22 a.m.; and May 3, 2010 at 4:54 p.m.
15
16
17

18 10. On at least one occasion, Defendant threatened Plaintiff of legal
19 action if the alleged debt was not paid.
20

21 11. Defendant's conduct violated the FDCPA and the RFDCPA in
22 multiple ways, including but not limited to:
23

- 24 a) Communicating with Plaintiff after having received a letter
25 from Plaintiff with a request to cease and desist all
26 collection contacts or a statement that Plaintiff refuses to
27 pay the debt (§ 1692c(c));
- 28 b) After having received a written communication from
 Plaintiff disputing the debt, continuing to contact Plaintiff
 without having first having provided validation of the debt
 (§1692g(b));

- 1 c) Falsely representing that a legal proceeding has been, is
2 about to be, or will be instituted unless payment of a
3 consumer debt is made (Cal Civ Code §1788.13(j)); and
4 d) Threatening to take an action against Plaintiff that cannot
5 be legally taken or that was not actually intended to be
6 taken (§1692e(5)).

7 12. As a result of the above violations of the FDCPA and RFDCPA
8 Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal
9 humiliation, embarrassment, mental anguish and emotional distress, and
10 Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages,
11 and costs and attorney's fees.
12

13 **COUNT I: VIOLATION OF FAIR DEBT**
14 **COLLECTION PRACTICES ACT**

15 13. Plaintiff reincorporates by reference all of the preceding paragraphs.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff respectfully prays that judgment be entered
18 against the Defendant for the following:
19

- 20 A. Declaratory judgment that Defendant's conduct
21 violated the FDCPA;
22 B. Actual damages;
23 C. Statutory damages;
24 D. Costs and reasonable attorney's fees; and,
25 E. For such other and further relief as may be just and proper.
26

27 ///

28 ///

**COUNT II: VIOLATION OF ROSENTHAL
FAIR DEBT COLLECTION PRACTICES ACT**

14. Plaintiff reincorporates by reference all of the preceding paragraphs.

15. To the extent that Defendant's actions, counted above, violated the RFDCPA, those actions were done knowingly and willfully

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the RFDCPA;
- B. Actual damages;
- C. Statutory damages for willful and negligent violations;
- D. Costs and reasonable attorney's fees,
- E. For such other and further relief as may be just and proper.

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

Respectfully submitted this 16th day of June, 2010.

By: 

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